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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.
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09/057,313 04/08/98 MCCOWN

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027805 TM02/0928  
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EXAMINER

MCALLISTER, S

ART UNIT

PAPER NUMBER

2167

DATE MAILED:

09/28/01

*ef*

**Please find below and/or attached an Office communication concerning this application or proceeding.**

**Commissioner of Patents and Trademarks**

*SR*

# Office Action Summary

Application No.  
09/057,313

Applicant(s)  
McCown et al

Examiner  
Steven B. McAllister

Art Unit  
2167



-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

## Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

## Status

- 1) ☒ Responsive to communication(s) filed on Sep 4, 2001
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

## Disposition of Claims

- 4) ☒ Claim(s) 1-19, 21-28, and 32-35 is/are pending in the application.
- 4a) Of the above, claim(s) 1-15 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 16-19, 21-28, and 32-35 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

## Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are objected to by the Examiner.
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved.
- 12) ☐ The oath or declaration is objected to by the Examiner.

## Priority under 35 U.S.C. § 119

- 13) ☐ Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d).
- a) ☐ All b) ☐ Some\* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

- 14) ☐ Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

## Attachment(s)

- 15) ☐ Notice of References Cited (PTO-892) 18) ☐ Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_
- 16) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 19) ☐ Notice of Informal Patent Application (PTO-152)
- 17) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s). \_\_\_\_\_ 20) ☐ Other:

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## DETAILED ACTION

### *Claim Rejections - 35 USC § 103*

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 16-19, 21, 22 and 24-35 are rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman in view of Backteman et al.

Freeman discloses individually lifting of those containers comprising strapped pallets (col. 1, lines 28-30), transporting them with the forklift onto a ship, and stacking them there (col. 1, lines 28-30). This operation discloses positioning on the deck or another container of sugar. Freeman also shows using a ramp to move a forklift to and from a ship (see Fig. 3). Freeman does not show using a container having a set of outer walls defining an inner volume and loading freight into that inner volume. Backteman et al show securing freight containers C with outer walls defining an inner volume (see Fig. 1). Backteman et al inherently show loading freight into the inner volume since said containers function by holding freight inside their volume. It would have been obvious to one of ordinary skill in the art to modify the apparatus of Freeman by using the containers of Backteman et al to provide for more secure stacking.

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As to claim 17, it is noted that Bucketman et al show securing the containers to the deck by semiautomatic twistlocks.

As to claims 18 and 19, it is noted that Bucketman et al discloses containers C capable of allowing interconnection of containers by semi-automatic (Fig. 2) twistlocks in a stacked environment. Both Bucketman et al (Fig. 1) and Freeman (pg. 1, col. 1, line 29) disclose stacking containers.

As to claim 22, it is noted that Freeman discloses individually lifting of the containers (col. 1, lines 31-32) and he discloses transporting them with the forklift from the ship and stacking them the dock in a warehouse (col. 1, lines 31-32). Freeman also shows using a ramp to move a forklift to and from a ship (see Fig. 3).

As to claim 24, it is noted that Bucketman et al discloses containers C capable of allowing interconnection of containers by semi-automatic (Fig. 2) twistlocks in a stacked environment. Both Bucketman et al (Fig. 1) and Freeman (pg. 1, col. 1, line 29) disclose stacking containers. Freeman additionally discloses offloading the ship with a reach stacker comprising a forklift (pg. 1, col. 1, lines 31-32) and towing to a destination site (p. 1, col. 2, line 24).

As to claim 25, Freeman also inherently discloses repeating the lifting step since multiple forklift trips are necessary to load a large number of loads on a ship.

As to claim 21, Freeman also shows unloading the containers at a destination (col. 1, lines 31-33).

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As to claim 26, it is noted that in loading a ship it is inherent that the forklift release the container or one forklift would be required for each container.

As to claim 33, it is inherent that the container is at least partially entered by a workman or vehicle in order to load since the workman or vehicle must handle the load.

As to claim 34, it is noted that as broadly claimed a forklift is a lift stacker since it performs all functions associated with the term.

As to claim 35, it is noted that Freeman discloses towing the marine vessel with the containers on the deck and that Backteman et al show securing the containers to the deck.

3. Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman in view of Backteman et al as applied to claim 22 above, and further in view of Teubert.

Freeman in view of Backteman discloses all elements of the claim except securing the ramp to a longitudinal rail on the ship. Teubert discloses securing ramp J to the longitudinal rail seen in Figs. 1 and 2. It would have been obvious to one of ordinary skill in the art to modify Freeman by securing the ramp to a longitudinal rail in order to make the ramp's connection more stable and avoid accidents with the forklifts.

4. Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Freeman in view of Backteman et al as applied to claim 16 above, and further in view of Charles.

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Freeman discloses all elements of the claim except grasping the container. Charles shows a gripping device gripping container 18. It would have been obvious to one of ordinary skill in the art to modify the method of Freeman by using the vehicle with a gripping device discloses in Charles in order to prevent accidents while going over the ramp or over bumps in general.

***Response to Arguments***

5. Applicant's arguments filed 9/4/01 have been fully considered but they are not persuasive.

Applicant argues that the palletized sugar cannot be reasonably considered "containers". While this may be true, the previously applied Bucketman et al reference shows walled containers as recited in the claims.

***Conclusion***

6. All claims are drawn to the same invention claimed in the parent application prior to the filing of this Continued Prosecution Application under 37 CFR 1.53(d) and could have been finally rejected on the grounds and art of record in the next Office action. Accordingly, **THIS ACTION IS MADE FINAL** even though it is a first action after the filing under 37 CFR 1.53(d). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after


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the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

7. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Steven B. McAllister whose telephone number is (703) 308-7052.

  
Steven B. McAllister

September 26, 2001

  
ROBERT P. OLSZEWSKI  
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